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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,734	01/16/2004	David R. Dodds	16274.174	6366
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WORKMAN NYDEGGER 60 EAST SOUTH TEMPLE 1000 EAGLE GATE TOWER SALT LAKE CITY, UT 84111				STAHL, MICHAEL J
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/758,734	DODDS, DAVID R.	
	Examiner	Art Unit	
	MICHAEL STAHL	2874	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 28 February 2008.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 and 15-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-5,7-13 and 15-20 is/are rejected.
- 7) Claim(s) 6 and 21 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ . | 6) <input type="checkbox"/> Other: _____ . |

Claim Objections

Claim 6 is objected to because “the cover member” (line 2) no longer has sufficient antecedent basis due to the amendment. It appears that “cover member” should be replaced with “module cover”.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 3-4, 7-12, 15-16, and 18-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Long et al. (US 2004/0185696). March 22, 2003 is relied upon as the effective filing date of the reference, based on provisional application 60/456361. The text of this rejection is repeated from the last action mailed 10/31/07.

Claim 1: Long discloses a transceiver module for insertion in a cage having a latch that retains the module, the module comprising: a housing **13** configured to receive any one of at least two different release mechanisms, a first one of which comprises a tool configured to releasably engage the housing, each of the release mechanisms movable between a first position and a second position, wherein the cage latch is not deflected when the release mechanism is in the first position but is deflected when the release mechanism is in the second position so that the

module can be removed from the cage. Figs. 1A-1B show an embodiment in which a tool (not shown) is received into slot **42** to contact the actuator **50** (see e.g. [0003]-[0005]). Figs. 2A-3D show an embodiment in which the actuator **50** itself was inventively modified to be accessible for actuation without requiring a separate tool. The housing **13** remains the same for both embodiments. The modified actuator **50** includes a leg **56** / barb **58** structure enabling it to be secured to the slot **42** which would otherwise receive an external tool (see e.g. figs. 2B and 3B).

Claim 3: The module further includes a projection **32** extending from the housing and configured to engage the cage latch.

Claim 4: The module further includes an actuator **50** coupled to the release mechanism, the actuator having a ramped surface **54** for deflecting the cage latch when the release mechanism is in the second position.

Claim 7: When the release mechanism is an insertable release tool, the actuator **50** moves linearly to deflect the cage latch as the release tool is inserted ([0004]-[0005]).

Claim 8: The cage latch has a slot **22** through which the projection **32** projects when the release mechanism is in the first position and wherein the projection is removed from the slot when the release mechanism is in the second position.

Claim 9: The housing includes a first opening **42** to receive a first of the at least two different release mechanisms, and a second opening **42** to receive a second of the at least two different release mechanisms.

Claim 10: The housing can receive only one of the at least two different release mechanisms at the same time (the modified actuator **50** extends through the slot **42** precluding insertion of the external tool).

Claim 11: The module housing described above has an interface surface and a front side **11**. A first opening **42** and second opening **42** adjacent the front side of the interface surface, to receive respective different release mechanisms, were already indicated above with regard to claim 9. One of the release mechanisms is an external tool as indicated above with regard to claim 1.

Claim 12: The first opening is configured to receive a rotatable handle. For example the tine-like portions of actuator **50** can be regarded as a handle, which can be manipulated (including rotation) by an operator to control the orientation of actuator **50**.

Claim 15: See above with regard to claim 10.

Claim 16: Long discloses a data transmission system comprising: a printed circuit board **14**; a cage structure (part of **12**) fixed to the PCB, the cage structure having an opening and a latch **26** adjacent the opening and a latch adjacent the opening, the latch further including a latch slot **22**; and a transceiver module **10** pluggable into the opening of the cage structure; the transceiver module having a module projection **32**, wherein the transceiver module is retained within the cage by the engagement of the module projection with the latch slot and wherein the transceiver module is removable from the cage by deflecting the latch with any one of at least two different release mechanisms to free the module projection from the latch slot, a first one of the release mechanisms comprising a tool configured to releasably engage the housing (see above with regard to earlier claims).

Claim 18: The system further comprises an actuator **50** coupled to the release mechanism, the actuator having a ramped surface **54a/b** for deflecting the cage latch.

Claim 19: See above with regard to claim 9.

Claims 1-5, 8-13, and 16-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Peterson et al. (US 6430053, cited in a previous information disclosure statement). The text of this rejection is repeated from the last action, except for an adjustment to claim 13 to account for the amendment to claim 6.

Claim 1: Peterson discloses a transceiver module for insertion in a cage having a latch that retains the module, the module comprising: a housing configured to receive any one of at least two different release mechanisms, a first one of which comprises a tool configured to releasably engage the housing, each of the release mechanisms movable between a first position and a second position, wherein the cage latch is not deflected when the release mechanism is in the first position but is deflected when the release mechanism is in the second position so that the module can be removed from the cage. In the prior art embodiment (relative to the reference) a tool (not shown) is received into slot **40** to contact the release member (see e.g. col. 1 lns. 46-58; an empty slot **40** is best seen in fig. 4). Figs. 1, 3A and 3B show the inventive embodiment in which the alternate (second) release mechanism is installed into slot **40** (figs. 4 and 5 show exploded views). The housing remains the same for both embodiments. The second release mechanism includes a clip structure **66** which snaps into the slot **40** which would otherwise receive an external tool (col. 4 lns. 26-34).

Claim 2: A second release mechanism of the at least two different release mechanisms comprises a handle **50/62** rotatably mounted **52** to the housing.

Claim 3: The module further includes a projection **32** extending from the housing and configured to engage the cage latch.

Claim 4: The module further includes an actuator **35** coupled to the release mechanism, the actuator having a ramped surface **36** for deflecting the cage latch when the release mechanism is in the second position.

Claim 5: When the release mechanism is a handle **50/62**, it is rotatably mounted to the module, and wherein the actuator moves linearly to deflect the cage latch as the handle is rotated (col. 3 lns. 41-50).

Claim 8: The cage latch has a slot **22** through which the projection **32** projects when the release mechanism is in the first position and wherein the projection is removed from the slot when the release mechanism is in the second position.

Claim 9: The housing includes a first opening **40** to receive a first of the at least two different release mechanisms, and a second opening **40** to receive a second of the at least two different release mechanisms.

Claim 10: The housing can receive only one of the at least two different release mechanisms at the same time.

Claim 11: The module housing described above has an interface surface and a front side. A first opening **40** and second opening **40** adjacent the front side of the interface surface, to receive respective different release mechanisms, were noted above with regard to claim 9. One of the release mechanisms is an external tool as indicated above with regard to claim 1.

Claim 12: See above with regard to claim 2.

Claim 13: In one embodiment, a module cover **54** retains the rotatable handle **50/62** in the first opening (via opening **58** as shown in fig. 5).

Claim 15: See above with regard to claim 10.

Claim 16: Peterson discloses a data transmission system comprising: a printed circuit board (not shown; col. 2 lns. 62-65); a cage structure (part of **12**) fixed to the PCB, the cage structure having an opening and a latch **26** adjacent the opening and a latch adjacent the opening, the latch further including a latch slot **22**; and a transceiver module **10** pluggable into the opening of the cage structure; the transceiver module having a module projection **32**, wherein the transceiver module is retained within the cage by the engagement of the module projection with the latch slot and wherein the transceiver module is removable from the cage by deflecting the latch with any one of at least two different release mechanisms to free the module projection from the latch slot, a first one of the release mechanisms comprising a tool configured to releasably engage the housing (see above with regard to earlier claims).

Claim 17: See above with regard to claim 2.

Claim 18: See above with regard to claim 4.

Claim 19: See above with regard to claim 9.

Claim 20: At least one of the release mechanisms is configured to deflect the cage latch using a rotational motion (via the handle **50/62**) and at least one of release mechanisms is configured to deflect the cage latch using a non-rotational motion (the linearly insertable tool).

Response to Arguments (2/28/2008 Remarks)

Regarding the rejection of claim 1 under Long et al., the Remarks allege that the tool as described in [0005] of Long does not deflect the cage latch as required by claim 1. However, claim 1 does not recite that the tool itself contacts or deflects the latch. Claim 1 merely recites that “the cage latch is deflected when the release mechanism is in the second position”. Long

satisfies this limitation since the cage latch is indeed deflected when the tool is in the second position (i.e., when it has been inserted to “access and depress the actuator **50**”). Nothing in claim 1 requires that the tool deflects the latch by direct contact. Even if claim 1 is amended to recite this, it appears that dependent claims 4 et al. would be then inconsistent since they recite an intervening actuator.

Regarding the rejection of claim 16 under Long, the Remarks are basically the same as asserted with regard to claim 1. In this case claim 16 does recite “by deflecting the latch with any one of at least two different release mechanisms”. However, this still does not recite a direct contact between the latch and a tool (in the case where a tool is the release mechanism). It is also noted that claims 1 and 16 include open language in that the first release mechanism *comprises* a tool configured to releasably engage the housing. Therefore other elements such as the actuator **50** of Long are not excluded. Finally, the actuator **50** of the inventive embodiment (figs. 2A and so forth) can be interpreted as a tool, which is releasably engaged with the housing ([0018]), and is distinct from the prior art tool described with reference to figs. 1A-1B. This interpretation has not been taken in the above rejection in order to avoid interfering with finality, but it may be taken in a future action if necessary. It is noted that the present specification has not provided any special definition of “tool”.

Regarding the rejection of claim 11 under Long, the Remarks question the assertion that Long discloses a first opening **42** and a second opening **42**, and allege that claim 11 requires two openings. However, claim 11 does not recite that the openings are different openings. The present disclosure also appears to interpret a single opening **70** as being first and second openings since it is configured to receive the tool and the other release mechanism (see e.g. fig.

7). If claim 11 is amended to recite that the first and second openings are different, support in the present disclosure for that interpretation should be clearly identified.

Regarding the rejection of claim 1 under Peterson et al., the Remarks point out that the prior art in Peterson is described in terms of a “slit” that receives a tool whereas the inventive part is described in terms of a “slot”. This is plainly not persuasive for several reasons. One, it is not clear where else the tool of the prior art embodiment would fit other than into the described “slot”, since as described in the background of Peterson there is limited space for access of a tool. A person of ordinary skill in the art would not have been tripped up by alternative terminology and would not have regarded the “slit” of the prior art embodiment and the “slot” of the inventive embodiment as different locations. Two, it is not apparent that there is any meaningful difference between “slit” and “slot”. For example, www.m-w.com defines “slot” as “a narrow opening or groove : SLIT, NOTCH”. Three, these terms are frequently confused and/or interchanged. Even Peterson does this at col. 3 lns. 35-41, within the same paragraph, referring to “slit 40” and “slot 40”. To the extent that the Remarks incorporate the same argument for claim 16, the same rebuttal as for claim 1 applies.

Regarding the rejection of claim 11 under Peterson, the Remarks repeat the argument that was made with regard to Long et al. Accordingly the above rebuttal to that argument is incorporated here by reference.

Allowable Subject Matter

Claims 6 and 21 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim

and any intervening claims, and if the earlier objection to claim 6 is resolved. Claim 6 as amended requires a module cover that encloses a substantial portion of the housing and retains the handle to the housing. This is clearly not taught or suggested by the previously applied Peterson reference, as the previously interpreted “cover member” **54** at most covers a portion of the front face of the housing. New claim 21 implicitly requires that the tool has two connector engagement elements. No such connector engagement elements are disclosed or suggested in the applied references. These references are concerned with the tool's effect on the cage latch, and provide no motivation for including connector engagement elements to be received by input/output receptacles of the housing.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 2874

Inquiries about this letter may be directed to examiner Stahl at 571-272-2360. Inquiries of a general or clerical nature (e.g., a request for a missing form or paper, etc.) should be directed to the technical support staff supervisor at 571-272-1626. Official correspondence which is eligible for submission by facsimile and which pertains to this application may be faxed to 571-273-8300. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions about the Private PAIR system should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Mike Stahl/

May 28, 2008

/Sung H. Pak/

Primary Examiner, Art Unit 2874